

## **REMARKS/ARGUMENTS**

Claims 1-6, 19-32 are pending with the entry of this amendment.

Claims 4 and 5 have been amended rendering the Claim Objection to Claims 5, 6, 19 and 20 moot.

### **Claim Rejections**

The Office Action has failed recognized that the cited art of Wagner simply uses movement information to identify a person, whereas the present disclosure verifies the actual presence of a person who is caused to make a movement, in addition to determining the identification of the person from the biometric characteristics. Therefore, the application of Wagner in the rejections is improper.

### **Claim Rejections under 35 USC §102**

The Office Action improperly rejected Claims 1, 23, 24, 30 and 31<sup>1</sup> as being anticipated by Wagner.

Claim 1 recites inter alia:

“A method of securing forgery in biometrical identification of persons which includes detecting at least one biological characteristic of a person and transforming it into personal data (12) in order to recognize the person (24) wherein before during or after the detecting at least one biological characteristic, the person is caused (14) to carry out a controllable motion, and a condition precedent to the biometrical identification is verification of the presence of the person based on said motion being detected, wherein said controllable motion is previously unknown to the person.”

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<sup>1</sup> The Office Action Summary does not reflect these rejections. The Office Action Summary states that only claims 1-4 and 21-29 are rejected and is silent with respect to Claims 30 and 31.

The Office Action states Wagner discloses “a method of identification of an individual that is based on movement information.” Claim 1 requires the detection of a movement in order to detect the presence of a person, in addition to collecting the biometric information from the person necessary to identify the person. Note that Wagner detects a movement for the purpose of identification, but does not disclose that an actual person is providing the movement, i.e., a prerecorded video image may be used for identification purposes, without regard to whether the person whose recorded image is provided is actually present.

The rejection of Claim 1 is improper and must be withdrawn.

The rejection of Claims 23 and 30 are also improper irrespective of the additional patentable features therein based on their dependence from Claim 1.

Claim 24 recites :

“A system of securing forgery in biometrical identification of persons, comprising a detector means for detecting at least one biological characteristic of a person and a processing means for transforming the characteristic detected into personal data, comprising: a directing means for inducing a certain motion of the person, the motion being detected by the detector means. wherein said processing means verifies whether the person is actually present in dependence of the detection result.”

The Office Action improperly states that a microphone (12) is a directing means. The microphone of Wagner does not perform the function of inducing a certain motion of the person as recited in Claim 24. The microphone 12 of Wager is a means for collecting an acoustic signal. (Col. 4 lines 52-54) Furthermore, the processing means (1) of Wagner does not verify whether the person is present, rather it identifies the acoustic

signal without regard to whether the person who provided the acoustic signal is present.

Wagner does not anticipate Claim 24 and thus the rejection must be withdrawn.

The rejection of Claim 31 is also improper irrespective of the additional patentable features therein based on its dependence from Claim 24.

### **Claim rejections under 35 USC § 103**

The Office Action improperly rejected Claims 2, 3 and 25, 26 as being unpatentable over Wagner in view of Horwitz. Horowitz is directed to the administration of eye examinations by medical professionals and is not relevant to detecting the presence and identification of individuals. The rejection of Claims 2, 3 and 25 are improper and must be withdrawn.

The Office Action improperly rejected Claim 21 as being unpatentable over Wagner in view of Trew. Trew, like Wagner is directed to the identification of the biometric characteristics of a person without regard to whether the person is actually present. Therefore Trew does not obviate the deficiencies in Wagner with respect to Claim 1 from which Claim 21 depends.

The rejection of Claim 21 is improper and must be withdrawn.

The Office Action improperly rejected Claims 4, 22, 27, 28 and 29 as being unpatentable over Wagner in view of Faulkner.

Faulkner, like Trew and Wagner is directed to the identification of the biometric characteristics of a person without regard to whether the person is actually present. Therefore, Faulkner does not obviate the deficiencies of Wagner with respect to Claims 1 and 24 as discussed above, and therefore Wagner and Faulkner cannot render Claims 4, WSH\125130.1

22, 27, 28, and 29 unpatentable.

### Conclusion

Clearly, the examiner has not identified any prior art which discloses using a requested movement of a person to verify the actual presence of that person in addition to using collected biometric information from that person to verify the identity of the person. Verification of presence and determining identification are two separate functions and a disclosure of the latter in no way can be a teaching of the former.

The Applicant request withdrawal of the claim and allowance of the application including Claims 1-6, 10-32.

Although an extension of time is not deemed necessary at this time, the Office is hereby authorized to charge any appropriate extension fee to Deposit Account No. 04-1679, Duane Morris LLP.

Respectfully submitted,



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